

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION AT COLUMBUS**

MARVIN MARTINEZ,	:	Case No. 2:22-cv-2890
	:	
Petitioner,	:	
	:	
vs.	:	Judge Edmund A. Sargus, Jr.
	:	Magistrate Judge Kimberly A. Jolson
	:	
WARDEN, NORTH CENTRAL	:	
CORRECTIONAL COMPLEX,	:	
	:	
Respondent.	:	

REPORT AND RECOMMENDATION

This matter, transferred to this Court from the United States District Court for the Northern District of Ohio, is before the Court on Petitioner's Application to Proceed *In Forma Pauperis* and without the prepayment of fees. (Doc. 2). Petitioner filed the Application in connection with a petition seeking a writ of habeas corpus under 28 U.S.C. § 2254. (Doc. 1).

The filing fee for a habeas corpus petition is \$5. 28 U.S.C. § 1914(a). Petitioner's Application reflects that as of June 1, 2022, he had a balance of \$200.84 in his inmate account. (Doc. 2-2, PageID 42, 45). He receives "State Pay" of \$20 per month. (Doc. 2, PageID 34; Doc. 2-2, PageID 42-45). Thus, the Application demonstrates that Petitioner has sufficient funds available to pay the \$5 filing fee.

Accordingly, the Undersigned **RECOMMENDS** that this Court **DENY** Petitioner's Application to *Proceed In Forma Pauperis* (Doc. 2) and order him to pay the \$5 filing fee within 30 days or have this action closed on the Court's docket.

**NOTICE REGARDING OBJECTIONS TO
THIS REPORT AND RECOMMENDATION**

If any party objects to this Report and Recommendation (“R&R”), the party may serve and file specific, written objections to it within **FOURTEEN (14) DAYS** after being served with a copy thereof. Fed. R. Civ. P. 72(b); Rule 12 of the Rules Governing Section 2254 Cases in the United States District Court. All objections shall specify the portion(s) of the R&R objected to and shall be accompanied by a memorandum of law in support of the objections. The Court may extend the 14-day objections period if a timely motion for an extension of time is filed.

A Judge of this Court will make a de novo determination of those portions of the R&R to which objection is made. Upon proper objection, a Judge of this Court may accept, reject, or modify, in whole or in part, the findings or recommendations made herein, may receive further evidence or may recommit this matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

The parties are specifically advised that failure to object to the R&R will result in a waiver of the right to have the District Judge review the R&R de novo, and will also operate as a waiver of the right to appeal the decision of the District Court adopting the R&R. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

September 7, 2022

s/Kimberly A. Jolson

Kimberly A. Jolson

UNITED STATES MAGISTRATE JUDGE